

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

REMARKS

This amendment is responsive to the Office Action¹ dated June 30, 2005. Claims 1-27 were presented for examination and were rejected. Claims 1, 7, 13, 22, 25 and 27 are independent claims and claims 1, 6-7, 13, 22, 25 and 27 are amended. No new matter is added. No claims are canceled. Claims 1-27 are pending.

Claims 1-6, 13, 15-16 and 22-27 are rejected under 35 U.S.C. §102(b) as being anticipated by Froula (U.S. Patent Number 6,356,767 B2, hereinafter "Froula"). Claims 7-12 are rejected under 35 U.S.C. §102(e) as being anticipated by Varney et al. (U.S. Patent Publication Number 2004/0095954 A1, hereinafter "Varney"). Claim 14 is rejected under 35 U.S.C. §103(a) as being un-patentable over Froula in view of Schweitzer (U.S. Patent Publication Number 2002/0176545 A1, hereinafter "Schweitzer"). Claims 17 and 19-21 are rejected under 35 U.S.C. §103(a) as being un-patentable over Froula in view of Varney. Claim 18 is rejected under 35 U.S.C. §103(a) as being un-patentable over Froula in view of Varney in further view of Tari et al. (U.S. Patent Number 6,542,491 B1, hereinafter "Tari"). Applicant respectfully traverses these

¹ The Office Action may contain a number of statements characterizing the cited references and/or the claims which Applicant may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicant does not automatically subscribe to, or acquiesce in, any such statement. Further, silence with regard to rejection of a dependent claim, when such claim depends, directly or indirectly, from an independent claim which Applicant deems allowable for reasons provided herein, is not acquiescence to such rejection of that dependent claim, but is recognition by Applicant that such previously lodged rejection is moot based on remarks and/or amendments presented herein relative to that independent claim

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

rejections because these references taken alone or in any reasonable combination do not disclose or suggest the subject matter recited in the amended claims.

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

Claims 1-6, 13, 15-16 and 22-27 are rejected under 35 U.S.C. §102(b) as being anticipated by Froula. Consider, for example, claim 1:

wireless A system for facilitating wireless data communication, comprising: a non-operations center configured to implement access control rules within an emergency zone; a wireless access device different from, and connected by wireline to, the operations center, the wireless access device configured to provide preferential access to a network to emergency devices over non-emergency devices within the emergency zone based on the access control rules.

Clearly claim 1 calls for an operations center which communicates in a non-wireless manner.

For support for this amendment, *see*, for example, Applicant's Fig. 1, network operations center 110, and related discussion in the specification. Claim 1 also calls for an access device which communicates in a wireless manner and which is connected by wireline to the operations center. Again, for support, *see* Applicant's Fig. 1, e.g., access point 130-1 and related discussion in the specification which is shown and described as being connected by a wireless link to user device 140-1 and by wireline to network operations center 110.

The Office Action, page 2 alleges that the "base station" in Froula reads on both the claimed "operations center" and the claimed "access device." Applicant respectfully disagrees with this interpretation of the reference with respect to these elements of claim 1 but the point of contention is moot because of the amendment to claim 1. Claim 1 now recites, *inter alia*, "a wireless access device different from, and connected by wireline to, the operations center" which, in and of itself, defines around the Office Action's application of this reference, because the Office Action applies the same base station against both the recited "operations center" and the recited "access device". Since claim 1 now more clearly defines the wireless device to be

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

different from the operations center, the same entity in the reference cannot now be applied against two different recited entities in the claim.

Moreover, the base station (e.g., 145, Fig. 1 in Froula) is a wireless station since it directly communicates with wireless devices (e.g., 185 and/or 190, Fig. 1 in Froula) and therefore cannot be the recited “non-wireless” operations center.

Furthermore, the Office Action, page 2, refers to column 2, lines 56-67 and column 3, lines 1-5 in Froula to show an operations center configured to “implement access control rules within an emergency zone.” But, this section of Froula does not show subject matter defined by this recited claim language. First of all, this passage and others in Froula say that the base station monitors access types, and it is respectfully submitted that monitoring and implementing are two entirely different activities. Implementing means to manifest something which wasn’t previously available, but monitoring means merely to stand-by and observe what previously was available. Thus, this passage did not disclose or suggest the recited claim element even prior to the current amendment because it did not show an operations center configured to “implement access control rules” as recited in claim 1. Rather, it appears that Froula’s “mobile access parameters” may be originated (i.e., implemented) within the sectors in its communication cell - *see* Froula’s independent claims 1, 10 and 18 “wherein the plurality of mobile access parameters are associated with the mobile access originated within the plurality of sectors in the communication cell.” (Emphasis added.) This suggests to Applicant that implementation of Froula’s “mobile access parameters” is accomplished within sectors in the communication cell in Froula and, in any event, not within the base station

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

In addition, it appears that Froula does not set forth "an emergency zone" as recited in claim 1. The term "zone" is not used. Although the term "emergency" is used a few times, it is always associated with other than a geographical area, (i.e., with other than a zone). For example, see "emergency #911 call" in column 3, lines 33-34 which associates "emergency" with other than a "zone." Indeed, Froula does use the terms "critical" and "non-critical", but not in connection with a zone or its equivalent, as far as Applicant can determine. Although, Froula does show sectored communication cells, e.g., cell 165 in Fig. 2 having sectors 230, 233, 236, 239, 242 and 245, any one or more of these sectored cells do not define an "emergency zone" as recited in claim 1. It is therefore respectfully submitted that Froula is also deficient in this regard.

In view of any one or all the several reasons set forth above, Froula does not disclose or suggest : "a non-wireless operations center configured to implement access control rules within an emergency zone; a wireless access device different from, and connected by wireline to, the operations center, the wireless access device configured to provide preferential access to a network to emergency devices over non-emergency devices within the emergency zone based on the access control rules." Applicant, therefore, respectfully submits that the rejection of claim 1 under 37 C.F.R. §102(b) should be withdrawn and the claim allowed.

Claim 6 was amended to improve form. Dependent claims 2-6, dependent directly or indirectly from claim 1 are likewise allowable, at least for reasons based on their dependency from an allowable base claim.

Claim 13 is discussed on pages 4-5 of the Office Action, and applies Froula, column 3, lines 23-28 against Applicant's recited "validating an emergency message." This section says:

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

"Prior to an attempt to establish access to the communication system, a mobile station receives the access parameters message carrying the control information, and uses the control information to determine if a mobile access is allowed based on access type and the current capacity of an access channel." (Emphasis added.) This section has nothing to do with validating an emergency message, but merely determining if access is allowed based at least on access type. In other words, this section describes the act of determining if access should be allowed based on at least the apparent type of message - the message type being represented or alleged as compared with another type of message.

To begin with, this section does not use the term "emergency message", but even if one reads that language into the section, it still does not disclose or suggest Applicant's claim language. This section does not attempt to validate or verify the authenticity of that message as claimed and as described in Applicant's specification and drawings. See, at least, Applicant's Fig. 5, block 510 and specification, paragraphs [0043]: "When a device....receives an emergency message from network operations center 110, it may validate the message [act 510]. The authentication, integrity, etc. of the emergency message may be verified at this point. For example, the emergency message may be decrypted using an emergency decryption key resident in access point 130 and/or gateway 310." Thus, Applicant is validating an emergency message but, at best, Froula is merely determining if a message is "emergency" or "non-emergency". Indeed, this section of Froula, and the rest of Froula, do not disclose or suggest: "validating an emergency message" as recited in claim 13. The other references, Varney, Schweitzer and/or Tari do not cure this deficiency in Froula.

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

Notwithstanding the patentability of claim 13 in view of the above, Applicant has amended claim 13 by including another step: "altering the emergency message responsive to the development stage of the emergency" which is not shown or suggested in Froula. This amendment finds support in the specification, at least in paragraph [0046], wherein it explains that different sets of control rules may be used for early-stage, mid-stage, and late-stage emergencies, as shown in Fig. 5, blocks 530/540.

In view of either or both of the above reasons, it is respectfully submitted that the 35 U.S.C. §102(b) rejection of claim 13 should be withdrawn and the claim allowed.

Claims 14-21 are dependent from claim 13, directly or indirectly, and are allowable at least for reasons based on their dependency from an allowable base claim.

Claim 22 has been amended to include: "instructions for establishing an emergency zone having access points within and outside of the zone where certain access points outside of the zone have coverage area partially overlapping the zone; instructions for establishing a default rule to either always include the certain access points, never include the certain access points or include the certain access points based on extent of the overlapping; and instructions for utilizing both the access points within the zone and, responsive to operation of the default rule, the certain access points." This amendment is supported in the specification, at least at paragraph [0025]. This language is not disclosed or suggested in Froula. As noted earlier, not even an "emergency zone" is disclosed in Froula, much less instructions for establishing an emergency zone. Also, instructions for establishing a default rule is not disclosed in Froula, much less a default rule with the specifics recited. And, instructions for utilizing access points within the zone and certain access points outside of the zone as a function of operation of the default rule

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

are also not disclosed in Froula. Furthermore, the other references: Varney, Schweitzer and/or Tari taken alone or in any combination also do not teach all of these added features.

Accordingly, for the reasons given above, it is respectfully submitted that the 35 U.S.C. § 102(b) rejection of claim 22 be withdrawn and the claim allowed.

Claims 23 and 24 are dependent from claim 22 and they are also allowable, at least for reasons based on their dependency from an allowable base claim.

Claim 25 has been amended in a manner similar to that of claim 1 and it is respectfully submitted that this claim is allowable for reasons similar to those provided with respect to claim 1.

Claim 26 is dependent from claim 25 and is allowable at least by reason of its dependency from an allowable base claim.

Claim 27 has been amended in a manner similar to that of claim 22 and it is respectfully submitted that this claim is allowable for reasons similar to those provided with respect to claim 22.

Claims 7-12 are rejected under 35 U.S.C. §102(e) as being anticipated by Varney. The Office Action, page 8, associates Varney paragraph [0005] with Applicant's "determining a need for an emergency zone in which wireless data access is to be restricted to emergency devices." First of all, the term "emergency zone" or a synonym therefor is not used in this paragraph although reference to a "service priority coverage area" is made. The paragraph says that "emergency service personnel" and the "service priority coverage area" are "defined on a dynamic basis by the centralized emergency services agency and are indicated by a priority call access code that is transmitted to the emergency service personnel." However, the paragraph

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

falls short of identifying the service priority coverage area as an area in which an emergency is taking place; it is merely an area having priority coverage. There may or may not be an emergency taking place in all or a portion of the service priority coverage area. Applicant thus respectfully submits that its "emergency zone" and Varney's "service priority coverage area," without significantly more specificity, are not equivalent areas or zones.

Regardless of whether or not these are equivalent areas or zones, the paragraph does not disclose or suggest: "determining a need" for such a zone. At best, the paragraph merely postulates a "service priority coverage area."

Moreover, the paragraph does not disclose or suggest a ".....zone in which wireless data access is to be restricted to emergency devices." It doesn't discuss "data" per se, and Applicant submits that the strong implication is purely voice communication, when comparing the paragraph to the problem set forth in Varney's paragraph [0003].

In any event, the added claim language, per this amendment, "altering the emergency message responsive to the development stage of the emergency" is not disclosed or suggested in Varney, and is not disclosed or suggested in any of the other cited references. As previously noted, this amendment finds support in the specification, at least in paragraph [0046], wherein it explains that different sets of control rules may be used for early-stage, mid-stage, and late-stage emergencies, as shown in Fig. 5, blocks 530/540.

In view of the above, it is respectfully submitted that claim 7 is not disclosed or suggested by Varney and that the rejection of claim 7 under 37 C.F.R. §102(e) should be withdrawn and the claim allowed.

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

Claims 8-12 are each directly dependent from claim 7 and are allowable at least for reasons based on their dependency from an allowable base claim.

PATENT
Application Serial No. 10/663,400
Docket No. 02-4111

CONCLUSION

Applicant respectfully requests reconsideration of this application and allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 07-2347 and please credit any excess fees to such deposit account. Early passage to issue is earnestly solicited.

Respectfully submitted,

Verizon Corporate Services Group Inc.

R/W:


Joe Wall
Reg. No. 25,648

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C/o Christian R. Andersen
Verizon Corporate Services Group Inc.
600 Hidden Ridge, HQE03H14
Irving, Texas 75038
(972) 718-4800

Customer No. 32127

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